

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Lowell L. Winger et al.

Serial No.: 10/785,273

Title: METHOD AND/OR APPARATUS FOR DETERMINING A SECOND PICTURE FOR TEMPORAL DIRECT-MODE BLOCK PREDICTION

Filed: February 24, 2004

Attorney Docket No.: 03-1431 / 1496.00341

Examiner: Anyikire, C.

Art Unit: 2621

In Response To: Advisory Action mailed November 13, 2009

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal by an attorney either of record or acting under 37 CFR 1.34.

REMARKS

Review is requested as several claimed limitations are not met by the Jeon reference.

Jeon is missing the arrangement of two claim 1 steps that (A) find a co-located picture and block and (D) use the reference index to determine a second reference picture. Claim 10 provides similar language. The rejection appears to mix and match elements from Case 1 and 3 scenarios of Jeon in an effort to cover all of the claimed limitations. However, the claims are subject to a 102 rejection and thus it is Jeon that must disclose the claimed arrangement. In contrast, Jeon is silent regarding any modification similar to the proposed modification used in the rejection. No evidence or explanation is of record to distinguish the proposed modification of Jeon from an improper use of hindsight. Furthermore, the proposed modification of Jeon is not proper in an anticipation-type rejection.

In particular, the rejection cites Jeon paragraph 0088 against claimed step (A) and paragraph 0111 against claimed step (D). Jeon paragraph 0088 is part of the Case 1 scenario where the reference index of a block is determined from the **three neighboring blocks in the same picture**. Jeon paragraph 0111 is part of the Case 3 scenario where the reference index of a block is determined from **a single co-located macroblock in a different picture**. Thus, Case 1 and Case 3 of Jeon are different scenarios that account for different conditions. Jeon is silent that Case 3 can be used to modify Case 1. As such, Jeon does not include all of the claimed limitations **as arranged in the claims**. The full arguments for this

issue may be found on pages 10-12 in the Amendment After Final filed October 26, 2009.

Jeon is missing at least one of the two claimed steps that determine a reference index for a current block at two instances. Claim 1 provides step (B) that determines a reference index for the current block - this is the first instance. Claim 1 also provides step (C) that maps the reference index to a lowest values reference index in a current reference list - this is the second instance. Claim 10 provides similar language. The rejection cites different sections within the Case 1 scenario of Jeon alleging that both claimed steps are disclosed. In contrast, the Case 1 scenario of Jeon as a whole only discloses a single instance that determines a reference index for a block.

In particular, paragraphs 0090-0092 of Jeon state that a B-picture block E will use the same reference index as either (i) the majority of neighboring blocks A, B and C or (ii) the smallest reference index if all three neighbors have different reference indexes. If the reference index in Case 1 is determined in a manner similar to the claimed step (B), Jeon is silent regarding a subsequent mapping to a lowest reference index in a current reference list, as in claimed step (C). If the reference index in Case 1 is determined in a manner similar to the claimed step (C), Jeon is silent regarding an earlier determination, as in claimed step (B). Any way Jeon is viewed, it is missing at least one of the two claimed steps. As such, Jeon does not include all of the claimed limitations as arranged in the claims. The full arguments for this issue may be found on pages 8-9 in the Amendment After Final.

Jeon is missing the claim 1 step (C) limitation that maps the reference index to a lowest valued reference index in a current reference list. Claim 10 provides similar language. The rejection appears to improperly cite a smallest reference index of a **block** in Jeon to allegedly anticipate the claimed lowest reference index value of a **reference list**. Blocks are not reference lists.

In particular, paragraph 0090 of Jeon discloses that the reference index can be determined from the neighboring blocks. However, Jeon is silent that the smallest reference index of a neighboring block is the same thing as the lowest reference index value in a current reference list. Jeon discloses a different "lowest" reference index than as claimed. Therefore, Jeon does not include all of the claimed limitations as arranged in the claims. The full arguments for this issue may be found on page 9 in the Amendment After Final.

Jeon is missing the claim 3 limitation that stores a unique identifier for each reference picture. Claim 12 provides similar language. The rejection incorrectly asserts that reference indexes are unique to the reference pictures. Furthermore, this assertion is not backed by any facts or appropriate explanation. As such, the rejection is based on an assertion that appears to be merely a conclusory statement.

In contrast, one of ordinary skill in the art would understand that (i) the reference indexes point to positions in the reference picture list and (ii) any reference picture may reside in any position of the list - see Attachment A filed with the Amendment After Final. Attachment A is evidence that the reference indexes correlate to the list, not to the reference pictures. No

rebuttal is of record. As such, Jeon does not include all of the claimed limitations as arranged in the claims. The full arguments for this issue may be found on pages 13-14 in the Amendment After Final.

Applicants' representative believes that the Jeon is missing several claimed limitations as arranged in the claims. For example, Jeon does not disclose (i) determining AND mapping a reference index, (ii) mapping to a lowest valued reference index in a current reference list and (iii) finding a co-located block AND using the reference index to determine a second reference picture. As such, Jeon does not anticipate the claimed invention and the evidence/arguments of record to the contrary are insufficient to sustain the rejections through the Appeal.

The Examiner is respectfully invited to call the Applicants' representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

CHRISTOPHER P. MAIORANA, P.C.



John J. Ignatowski
Registration No. 36,555

Dated: December 15, 2009

c/o Pete Scott
LSI Corporation

Docket No.: 1496.00341 / 03-1431
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